



Appeal Decision

Hearing held on 5 September 2023

Site visit made on 4 and 6 September 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/V2635/W/23/3320506

Limagrain UK Ltd, Station Road, Docking, Norfolk PE31 8LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Custom Build Homes against the decision of the Borough Council of King's Lynn and West Norfolk.
 - The application Ref 22/01076/O, dated 9 May 2022, was refused by notice dated 18 October 2022.
 - The development proposed is Outline planning application (some matters reserved) for 4 serviced plots for Custom Housebuilding.
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Decision

1. The appeal is allowed and planning permission is granted for 4 serviced plots for Custom Housebuilding at Limagrain UK Ltd, Station Road, Docking, Norfolk PE31 8LS in accordance with the terms of the application, Ref 22/01076/O, dated 9 May 2022, subject to the attached schedule of conditions.

Procedural Matters

2. The description of development on the application form includes the words "Outline planning application (some matters reserved) for", but I have omitted these as they are not an act of development. Furthermore, the application was submitted in outline with all matters reserved, except for access. I have had regard to the layout plans (CBH.1007.2002 Revision A and CBH.1007.2005 Revision A), but have treated each element of these as indicative, apart from the point of access to the site and circulation routes shown.
3. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') transpose the Habitats Directive and the Birds Directive into English law. The aim of the Directives is to conserve key habitats and species across the European Union by creating and maintaining a network of sites known as the Natura 2000 network. They require competent authorities before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.
4. The Officer Report does not refer to any European Sites but, having regard to my experience of appeal casework in Norfolk, I raised with the main parties whether the proposal could affect any such sites. It subsequently became evident the proposal is within the zone of influence of several sites. I have therefore dealt with this matter as a main issue and engaged with the main parties and Natural England accordingly as part of the appeal proceedings.

5. The appeal is supported by a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) to address the Council's concerns regarding provision of affordable housing and mitigation for the European Sites. Following discussion at the Hearing, the UU was amended and resubmitted for consideration, to include a larger, policy compliant, offsite contribution towards affordable housing and the European Sites. I refer to these matters in the second and third main issues.
6. The appeal site is outside of the Docking Conservation Area, so the provisions of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 do not apply.
7. On 5 September 2023 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement and the only substantive revisions to it relate to national policy for onshore wind development in England. As such, I have not engaged further with the main parties regarding this revision.

Main Issues

8. The main issues are:
 - whether the proposal is consistent with policies relating to housing in the countryside, including the effect on its character and beauty and to the setting of the Docking Conservation Area;
 - whether suitable provision would be made for affordable housing; and
 - the effect of the proposal on the integrity of the features of European nature conservation sites at Dersingham Bog, the North Norfolk Coast, Roydon Common, and The Wash.

Reasons

Location, and Countryside Character and Beauty

9. The appeal site concerns a finger of land that extends west from homes under construction¹ on the main part of the former Limagrain site, from which access would be taken. To its north and west are open and undeveloped agricultural fields, whereas to the south is the Old Vicarage and the Docking Conservation Area (CA). While the site is adjacent to the development limits of Docking, it is situated within the countryside.

Location

10. The Council's Spatial Strategy includes CS² Policies CS01 and CS06, which seek to direct new development within or adjacent to Key Rural Service Centres, with at least 2880 new homes being provided in settlements such as Docking. However, CS Policy CS02 introduces a converse approach, where limited growth is accepted only within the development limits of such settlements and there is no development beyond it. Furthermore, SADMPP³ Policy DM2 restricts development in such locations to several categories, including affordable and rural workers' housing.

¹ Planning References: 19/01654/OM and 22/00475/RMM.

² King's Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy (Adopted Version July 2011).

³ Site Allocations and Development Management Policies Plan (Adopted September 2016).

11. The location of the site within the countryside, adjacent to its development limits of Docking, means it generally accords with CS Policies CS01 and CS06, subject to consideration of its impact on the character and beauty of the countryside and heritage assets, which I address below. However, the nature of the proposal brings it into conflict with CS Policy CS02 and SADMPP Policy DM2, particularly as it does not meet any of the criteria in the latter.

Countryside Character and Beauty and the Conservation Area

12. The significance of the CA is derived from the character and appearance of the design and layout of the buildings situated therein. Development is formed around three nodal points of converging roads and the generally linear arrangement of buildings between. This includes courtyards and complexes of barns, and small tracks and lanes with development either side that lead out to tree planting or an absence of development. There is greater depth and density to the built form around these and the nodal points, whereas the backdrop of properties in linear streets tends to be open and undeveloped or enclosed by trees. There are very few gaps facilitating views out beyond the settlement.
13. The historic maps of Docking illustrate it has changed, including around Ringstead Road, but there have been considerable alterations associated with the quality of modern infill and other housing development. For example, the CA Map shows sizeable buildings were present on the site of Sandringham Avenue. These are likely to have been functional and imposing agricultural buildings, but the houses now constructed are, nevertheless, highly prominent at the northern edge of Docking. Likewise, Heartwood developed off Pound Lane, and Courtyard Barns, east of Station Road, are both prominent beyond the settlement. The roofs of buildings in the village are also visible from the west. The form and grain of development in Docking is therefore diverse, including variety in the scale and materials of construction.
14. The Old Vicarage has maintained its large grounds, albeit they are much altered with the presence of domestic paraphernalia, including a tennis court in situ and structures approved by the Council. At the time of my visit, views of it were mostly obscured by mature planting south of it, including to the grounds of St Mary's Church, but I am mindful its curious gothic style and verdant surroundings would likely be evident when planting is not in leaf.
15. Despite modern interventions within or adjacent to Docking, the field structure surrounding it survives as a strong reminder of the contribution made by agriculture to its historic development, including in the CA. This has diminished over time, including through redevelopment of the Limagrain site. Despite this, and the extent of change in and around Docking, the surrounding agricultural landscape continues to make an important contribution to its setting.
16. The removal of the polytunnels and greenhouses that were present within the site will almost certainly have improved its appearance and the current storage of building materials and earth and sand heaps are temporary in connection with houses under construction. The site's narrow shape is also a historic feature of land surrounding Docking, but remains fundamentally different to the extensive pattern of large, open, and undeveloped fields around the settlement. It therefore makes a neutral contribution to the wider agricultural setting of Docking and the CA. Similarly, given its distance from the Old Vicarage, the extensive nature and varied character of its domestic grounds and their relationship with agricultural land to the west, the site also only

makes a limited contribution to its setting. In particular, to the transition from that part of the CA to the countryside beyond Docking.

17. While the site is enclosed by hedge planting, the proposed homes would stand out as a discordant projections beyond the settlement that would be of greater prominence than structures previously occupying the site. Its layout is only indicative but is likely to be similar in form due to the site configuration. Accordingly, as this already stands out from the large fields surrounding Docking, its development would be inconsistent with the established form of development found to either side of lanes leading from the village.
18. The proposal would likely be experienced from the existing development east and, to a lesser extent, the west. However, the numerous housing schemes referred to above, adjacent to Docking, are of greater prominence within its surroundings than the proposal would likely be. In comparison, this would be significantly smaller and have a limited degree of prominence.
19. The proposal would bring built form closer to the grounds of the Old Vicarage but, for reasons stated above, this would have a limited effect on the relationship of this part of the CA with the agricultural setting of the settlement or the contribution its openness makes to the CA. In any event, the proposal would likely have a similar relationship to that of Bell Meadows experienced from the cemetery of St Mary's Church and given the recent use of the site they would not affect the more important transition to the countryside to the west.
20. The experiential effect associated with domestic noises and paraphernalia would also be limited in the context of the existing presence of homes east of the site and its former commercial use.
21. Although the extent of visual harm caused to the settlement pattern by housing development of the site would be limited, this would still constitute harm to the character and beauty of the countryside and the setting of the CA and, thereby, the significance of the latter.

Conclusion on the First Main Issue

22. The policies of the development plan seek to direct development to where it is sought in accordance with a clear hierarchy of settlements, but there are two competing approaches outlined therein. Moreover, having regard to the Milne Judgement⁴, it is not uncommon for policies of a development plan to pull in different directions. However, the proposal would conflict with SADMPP Policy DM2 and CS Policy CS02 due to its nature and location beyond the settlement boundary; and CS Policies CS01 and CS06 in respect of design and heritage having regard to its location. Furthermore, the proposal would also conflict with the design and heritage aims of CS Policies CS08 and CS12, and SADMPP Policy DM15. As such, I can conclude that the proposal would not be consistent with policies relating to housing in the countryside, including the effect on its character and beauty and to the setting of the CA.
23. The harm to the countryside would also bring the proposal into conflict with Framework paragraph 130; and harm to the setting of the CA with the aims of paragraphs 197, 199 and 200 of the Framework. I address any conflict with Framework paragraph 202 in the section entitled *Heritage and Planning*

⁴ R. v Rochdale Metropolitan Borough Council Ex Parte Milne [31 July 2000] EWHC 650 (Admin).

Balance, as this requires balancing the concept of less than substantial harm and any benefits of the proposal, as well as the competing requirements of national and development plan policies.

Affordable Housing

24. At the Hearing, the main parties agreed development of the site meets two of the criteria outlined in SADMPP Policy DM08. In such circumstances, CS Policy CS09 applies to the appeal site and the development east. An additional affordable housing unit would be required. The latter expects this to be delivered on site, other than in exceptional circumstances when a financial contribution will be sought. The Council indicated exceptional circumstances include viability issues or inability for a plot to be provided through a Registered Provider (RP). However, these are not specifically stated in the development plan, so could amount to any matters relevant to a given case.
25. The proposed UU includes provision for a financial contribution to the Council equivalent to one affordable housing unit (£64,000) for this to be provided offsite. There was discussion during the Hearing, as to whether an RP would take on a single plot within part of the appeal site. Although divergent views were offered, there is no substantive evidence before me either way.
26. Despite this, the evidence before me, which I consider in the *Heritage and Planning Balance* indicates there is need for custom build homes in the borough and the proposal would contribute to meeting it. This could otherwise be diminished by the loss of one plot through onsite provision, whereas the proposal would deliver the intended specific housing and affordable housing. In this case, I consider these would constitute exceptional circumstances, which is more closely aligned with the approach advocated by the Framework.
27. For these reasons, I conclude that suitable provision would be made for affordable housing. Hence, the proposal would not conflict with the requirements for the provision of affordable housing set out in CS Policies CS09 and CS14, SADMPP Policy DM08, and Framework paragraphs 61-65.

European Sites

28. The proposal is around 6.6km south of the North Norfolk Coast Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. The site is around 10.1km east of The Wash SPA, SAC and Ramsar site. The Roydon Common and Dersingham Bog Ramsar sites, and Roydon Common and Dersingham Bog SAC are also 10.6km southwest of the appeal site. These are the European Sites relevant to the appeal.

Qualifying Features, Designations and Conservation Objectives

29. The Qualifying Features of the North Norfolk Coast SPA are breeding birds including: Common Tern, Eurasian Marsh Harrier, Great Bittern, Little Tern, Montagu's Harrier, Pied Avocet, and Sandwich Tern. It also supports non-breeding birds including: Dark-Bellied Brent Goose, Eurasian Wigeon, Pink-footed Goose, and Red Knot; and waterbird assemblages.
30. The conservation objectives of the North Norfolk Coast SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of the habitats of the

qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features; and the distribution of the qualifying features within the site.

31. The North Norfolk Coast Ramsar site is designated as one the largest expanses of undeveloped coastal habitat of its type in Europe, due to its marshland coast with intertidal sand and mud, saltmarshes, shingle banks and sand dunes, interspersed with a series of brackish-water lagoons and extensive areas of freshwater grazing marsh and reed beds. It also supports at least three British Red Data Book and nine nationally scarce vascular plants, one British Red Data Book lichen and 38 British Red Data Book invertebrates. The site also qualifies due to its internationally important waterfowl assemblages and internationally important species captured under the SPA designations outlined above and the Northern Pintail.
32. Some of the Qualifying Features of the North Norfolk Coast SAC overlap those of the Ramsar, principally coastal lagoons; its dunes which are either varied shifting, fixed or humid slack formations; and its vegetation, including perennials on stony banks, European Marram Grass, Mediterranean and thermo-Atlantic halophilous scrubs, and herbaceous vegetation. The SAC also qualifies given the presence of Eurasian Otter and Petalwort.
33. The conservation objectives of the North Norfolk Coast SAC are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring the extent and distribution of qualifying natural habitats and habitats of qualifying species; the structure and function (including typical species) of qualifying natural habitats; the structure and function of the habitats of qualifying species, the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely; the populations of qualifying species; and the distribution of qualifying species within the site.
34. The Dersingham Bog Ramsar site is designated as is supports an important assemblage of invertebrates, with nine British Red Data Book species having been recorded. Meanwhile, the Roydon Common Ramsar site is designated as it is the most extensive and representative example of valley mire-heathland biotope within East Anglia; it is a mixed valley mire holding vegetation communities which reflect the influence of both base-poor and base-rich water; the vegetation communities have a restricted distribution within Britain; and it supports a number of acidophilic invertebrates outside their normal geographic range, and six British Red Data Book invertebrates.
35. The Qualifying Features of the Roydon Common and Dersingham Bog SAC are its Northern Atlantic wet heaths with *Erica Tetralix*, European dry heaths, and depressions on peat substrates of the *Rhynchosporion*. Its conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring the extent and distribution of qualifying natural habitats; the structure and function (including typical species) of qualifying natural habitats; and the supporting processes on which qualifying natural habitats rely.

36. The Wash SPA is covered by two designations, including The Wash (Norfolk and Lincolnshire), with very little difference between the Qualifying Features with the latter containing most of the non-breeding birds referred to for the former: Bewick's Swan, Bar-Tailed Godwit, Black (Common) Scoter, Black-Tailed Godwit, Common Goldeneye, Common Redshank, Common Shelduck, Dark-Bellied Brent Goose, Dunlin, Eurasian Curlew, Eurasian Oystercatcher, Eurasian Wigeon, Gadwall, Grey Plover, Northern Pintail, Pink-Footed Goose, Red Knot, Ruddy Turnstone, and Sanderling. The only difference between breeding birds was Bewick's Swan found at the latter, with Common and Little Tern found at both, along with waterbird assemblages. However, the latter is also home for several migratory birds listed above, as well as several gull species.
37. The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring the extent and distribution of the habitats of the qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features; and the distribution of the qualifying features within the site.
38. A separate SAC designation also covers The Wash and North Norfolk Coast, the Qualifying Features of habitats of a varied nature, including sandbanks slightly covered by seawater permanently; mudflats and sandflats not covered by seawater at low tide; reefs; Salicornia and other annuals colonizing mud and sand; Atlantic salt meadows; Mediterranean and thermo-Atlantic halophilous scrubs; as well as coastal lagoons and the presence of Harbour Seal and Otter. The conservation objectives of this SAC mirror those of the North Norfolk Coast SAC.
39. The Ramsar designation also overlaps with the SAC selection due to the types of land formations and interrelationship with seawater and the species that predominate therein, but also the SPA designation for its waterfowl assemblages.

Appropriate Assessment

40. The impact of recreational activities inside the European Sites is identified in the Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (Norfolk GIRAMS) as the main negative contributor upon the sites. Furthermore, the appellant's shadow Habitat Regulations Assessment identifies that potential in-combination impacts of housing development could affect the European Sites, most likely through disturbance to the habitats and key species therein.
41. The Norfolk GIRAMS proposes a range of measures such as signage and wardening, to be funded through a tariff of £210.84 for each new dwelling, secured through a legal agreement. The appellant's UU indicates proposed payments would be made for each of the plots separately, rather than in one lump sum, but are nevertheless secured through it. The amount is also indexed linked so, if it increases or decreases, the correct amount would be paid before each of the plots was sold.
42. As the competent authority I have consulted Natural England (NE) as the appropriate nature conservation body. NE has not provided any evidence to

dispute the conclusions reached by the appellant or that the Norfolk GIRAMS would be sufficient to avoid or reduce impacts to maintain the integrity of the European Sites and their qualifying features. Accordingly, there would be sufficient procedures in place to secure appropriate mitigation and ensure that it would be provided in a timely manner to accord with Norfolk GIRAMS.

43. I am satisfied that the proposed development, either alone or in combination with other plans or projects, would not adversely affect the integrity of the European sites protected under the Habitats Regulations. For these reasons, I conclude that the proposal would accord with the habitats and species protection criteria set out in CS Policies CS08 and CS12, and DM Policy DM19.

Other Matters

44. Prior to the Hearing, the Council outlined that consideration of the effect on European Sites would also mean assessing the ecological baseline of the site. The appellant referred to the 2019 Ecological Assessment submitted with the application to develop the Limagrain site, which included consideration of the appeal site. This is out of date, but the Shadow HRA updates this position. On this basis, the proposal would not have a harmful effect on protected species or habitats within the site or its surroundings. The Council arrived at a similar conclusion having regard to the evidence. The proposal would therefore accord with CS Policies CS01, CS08 and CS12, and SADMPP Policy DM19.
45. I note the concerns identified by the Parish Council in respect of safety of the access from the site onto Station Road, opposite the village shop. However, the proposal would add only four homes to the existing approved development served from the access and there is no substantive evidence before me to demonstrate additional traffic would be likely to lead to highway safety concerns. I am also mindful that neither the Highway Authority nor the Council raised objections on these grounds. Furthermore, Parish concerns regarding the individual appearance of four separately designed homes could be addressed through the separate submissions of Reserved Matters.

Heritage and Planning Balance

Public Benefits

46. The harm I identified in the first main issue equates to less than substantial harm to the setting of the CA. Framework paragraph 202 identifies this harm should be weighed against public benefits of proposals, including securing its optimum viable use.

Self-Build and Custom Housebuilding

47. Sites identified by the Council for Self-Build and Custom Housebuilding should be considered based on the duties outlined in the 2015 Act⁵ (as amended), including Sections 1(A1) and (A2), 2A(2), 2A(5) and 2A(6)(c); and the Planning Practice Guidance (PPG). These clarify what qualifies as a site and should be read together.
48. Firstly, Section 2A of the 2015 Act states an authority must give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area

⁵ Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).

arising in each base period. Section 2A(5) defines 'development permission' as planning permission or permission in principle (within the meaning of the 1990 Act). Secondly, 2A(6)(c) states development permission is "suitable" if it is permission in respect of development that could include self-build and custom housebuilding.

49. To my mind the above only relates to full or outline planning permission, as reserved matters is a by-product of conditions attached to the latter. This would discount any plots included by the Council on this basis. Furthermore, Section 1(A2) is clear that self-build or custom housing does not include building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person. I therefore do not consider altered internal layouts and specifications, or materials through variance of existing permissions would meet the definition introduced by the 2015 Act. This would undermine the position regarding permission for those plots qualifying as self-build or custom housing.
50. In addition to the above, the Council relies chiefly on Community Infrastructure Levy (CIL) Exemption Part 1 Claim Forms to demonstrate it is meeting its statutory duty. Moreover, at the Hearing, the Council confirmed these are generally not supported by other evidence to provide certainty of sites coming forward, as this relates to marketing of a few larger multiple plot sites.
51. I have reviewed the evidence before me in the Statement of Common Ground (SoCG) and, based on all the above, there would be a significant shortfall in the provision of development permissions for plots for self-build and custom homes. While some plots could ultimately be capable of contributing to meeting the Council's duty, the absence of other evidence for plots included solely based on CIL Part 1 Exemption Forms, provides too much uncertainty. A large proportion of the permissions referred to in the SoCG would therefore need to be discounted. This means development permissions given by the Council that meet the requirements of the 2015 Act and PPG are likely to be less than one third of those given by the Council. On this basis, significant weight should be afforded to the provision of four plots for custom housebuilding, secured by a legal agreement, as it would help the Council to meet its statutory duty. This could include unmet demand arising from the fifth base period.

Other Benefits

52. The Council has identified it can demonstrate more than five-years supply of deliverable housing land within the borough⁶, but this does not represent a ceiling on the delivery of housing. There is also no such ceiling to the growth Key Rural Service Centres, such as Docking, can accommodate or substantive evidence before me to demonstrate the proposed houses would reach a tipping point and result in harm to its facilities, services, or other infrastructure. I am also mindful of the Government's objective, outlined in the Framework, to significantly boost the supply of homes. The appeal scheme would amount to a small scheme that could be built-out relatively quickly and would add to the supply and choice of housing in the borough. Nevertheless, the scale of the proposal would be modest, so these social benefits would be of limited weight.
53. I am satisfied that the provisions outlined in the UU, including those referred to in relation to the European Sites, are supported by the development plan and

⁶ 6.67 years, as at March 2023.

meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and the Framework. The obligations are directly related to the development because they would provide an off-site contribution to affordable housing and management of recreational pressures to the European Sites. The contributions are also reasonable in scale and kind, as they are informed by the latest evidence regarding what would be required in each respect. Despite this I only afford limited weight to each benefit as it is required to mitigate impacts associated with developing the site.

54. The main parties agree that the site constitutes brownfield land, development of which is supported by the Framework. However, given the site's location beyond the settlement, this benefit would not attract the substantial weight afforded to the value of using such land within settlements for homes. Conversely, for the reasons identified above, it would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land, so the weight afforded to this benefit would be limited.
55. The occupants of the proposed properties would also be likely to contribute to supporting the services and facilities in Docking, which would constitute benefits in social and economic terms. There would also be shorter-term direct economic benefits to small and medium-sized enterprises through construction phases. However, the magnitude of the proposal means these benefits would only be afforded limited weight.
56. The facilities and services found in other settlements can be reached by various means of transport, but I ascribe negligible additional benefit in respect of this matter, as I consider it to be an absence of harm.
57. Taking the above together, the provision of custom housing plots would be a benefit of significant weight, alongside several other benefits of limited weight. I consider these would be of greater significance than the harm that would be caused to the setting of the CA. In accordance with Framework paragraphs 199 and 202, considered together, I am therefore persuaded that there would be wider public benefits of sufficient magnitude to outweigh the great weight to the asset's conservation and considerable importance and weight to the less than substantial harm identified to its significance.

Overall Balance

58. I have already identified the benefits of the scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the CA. In terms of harm, the proposal would not comply with development plan policy in respect of harm to the CA's setting, its location or impact on the character and beauty of the countryside.
59. The development plan for the area includes the CS and SADMPP, both of which predate the current Framework. This is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to policies according to their consistency with the Framework.
60. CS Policies CS01, CS08 and CS12 are generally consistent with the heritage aims of the Framework, but I only afford moderate weight to the conflict of the

proposals with these policies, due to the absence of a balancing exercise in relation to heritage harms.

61. SADMPP Policy DM2 and CS Policy CS02 restrict housing beyond development limits of settlements. In isolation of other considerations, this would not be wholly aligned with the more flexible and balanced approach implicit in the objectives of the Framework. However, this does not fundamentally undermine the continued relevance of such an approach, particularly as their aim is to focus growth within designated settlements. The underlying objectives of the policies are therefore partially consistent with the Framework, so I afford moderate weight to the conflict of the proposal with them.
62. CS Policy CS06 and SADMPP Policy DM15 are generally consistent with the Framework regarding its aims to achieve well-designed places. I therefore afford considerable weight to the conflict of the proposals with these policies.
63. Despite the proposal according with several policies of the development plan, the conflict with CS Policies CS01, CS02, CS06, CS08 and CS12; and SADMPP Policies DM2 and DM15 renders it contrary to the development plan, when considered as a whole. Nevertheless, the evidence before me points to a significant unmet demand for self-build and custom housebuilding plots in the Borough. Together with the benefits associated with it, this leads me to an overall conclusion that material considerations indicate the decision should be taken otherwise than in accordance with the development plan. This would therefore justify the grant of planning permission for the appeal and lead to sustainable development, as advocated by SADMPP Policy DM1.

Conditions

64. I have amended the conditions requested by the Council for clarity and merged conditions where appropriate, including in relation to standard conditions for the submission and timing of reserved matter applications and commencement of development. It is necessary to require compliance with the submitted plans, but only in relation to the access as this is not a reserved matter. To protect the living conditions of neighbouring properties, a condition is necessary to secure a construction method statement, but I have omitted reference to the timescale of construction, as there are no reasonable restrictions that could be put in place to control this. To reduce the risk of flooding to the site and other land and persons, a pre-commencement condition is necessary to secure details of foul and surface water drainage. I have not imposed a condition regarding the number of proposed dwellings. This is not required, as the description of development clearly identifies the number of dwellings, including in the UU.

Conclusion

65. The proposed development would be contrary to the development plan, when considered as a whole. Despite this, the material considerations I have set out, including the Framework, indicate that the appeal should be determined other than in accordance with it. Accordingly, for the reasons given, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Jones	Tetlow King Planning
Rob Sutton	Director of Heritage Consulting (Cotswold Archaeology)
Mario Wolf	Director of Planning (Custom Build Homes)

FOR THE LOCAL PLANNING AUTHORITY:

Jade Calton	Planning Officer
Clare Cobby	Housing Enabling Officer
Lynette Fawkes	Principal Conservation Officer
Polly Harris-Gorf	Principal Planning Officer
Karl Patterson	Housing Development Manager
Claire Wiggs	Senior Ecologist

DOCUMENTS SUBMITTED FOLLOWING THE HEARING:

1. Agreement to pre-commencement planning conditions.
2. Revised Unilateral Undertaking.
3. Consultation Response from Natural England.
4. Confirmation of Qualifying Features and Conservation Objectives relevant to the European Sites identified in the appellant's Shadow HRA.

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The access for the development hereby permitted shall be carried out in accordance with the following approved plans: CBH.1007.2002 Revision A and CBH.1007.2005 Revision A.

- 5) No development shall take place until full details of the drainage works for foul and surface water have been submitted to, and approved in writing by, the local planning authority. The drainage works shall be carried out in accordance with the approved details prior to any dwelling to which they relate being occupied.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- delivery, demolition and construction working hours, including for any piling works, and methods of communication to the wider community regarding these;
 - the location and layout of the contractor compound, parking of vehicles of site operatives and visitors and storage of plant and materials used in constructing the development;
 - the location of any fixed machinery, including their sound power levels; and
 - measures to control the emission of noise, dust, and dirt during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

END OF SCHEDULE